

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 EBONY HOWARD, individually, and on
4 behalf of all others similarly situated,

5 Plaintiff,

6 vs.

7 SOUTHWEST GAS CORPORATION,

8 Defendant.

Case No.: 2:18-cv-01035-JAD-VCF

**ORDER GRANTING FINAL
APPROVAL OF CLASS AND
COLLECTIVE ACTION SETTLEMENT**

9 Plaintiff brought claims under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §201, et
10 seq. and Nev. Rev. Stat. Ann. (hereinafter “N.R.S.”) §§ 608.016 and 608.018 for alleged overtime
11 violations on behalf of herself and similarly situated dispatchers who worked at Defendant’s
12 dispatch centers. After the parties reached a class-wide settlement through private mediation, I
13 preliminarily approved the parties’ settlement, certified the proposed Settlement Class pursuant to
14 29 U.S.C. § 216(b) and Fed. R. Civ. P. 23, and directed the parties to send out the class notice.
15 ECF No. 23. The parties’ Joint Motion for Final Approval of Class and Collective Action
16 Settlement was heard on June 10, 2019, and no opposition thereto was filed or voiced.

17 Having fully reviewed the Final Approval Motion, the supporting Memorandum of Points
18 and Authorities, and the supporting declarations, I HEREBY MAKE THE FOLLOWING
19 FINDINGS, CONCLUSIONS, AND ORDERS:

20 1. This Order Granting Final Approval of Class and Collective Action Settlement
21 (“Final Approval Order”) incorporates the Amended Settlement Agreement and Release and
22 Exhibits filed in this action on February 21, 2019 (“Settlement”). ECF No. 22-3.

23 2. Consistent with the definitions provided in the Stipulation of Settlement and
24 Release and the Court’s Preliminary Approval Order, and except as provided herein, the
25 Settlement Class includes:

26 For purposes of the FLSA settlement, the “Settlement Class”
27 consists of all current or former hourly-paid dispatchers who work
28 or worked for Defendant at any time between June 22, 2015 and
October 1, 2018 and who have filed timely consents to participate
in the Action.

1 For purposes of the Rule 23 Nevada settlement, the “Settlement
2 Class” consists of all current or former hourly-paid dispatchers
3 who work or worked for Defendant in the state of Nevada at any
4 time between June 7, 2016 and October 1, 2018 and who have not
5 timely submitted Opt Out Forms in the Action.

6 3. Adequate notice has been disseminated and all potential Settlement Class members
7 have been given an opportunity to opt out of this lawsuit. Accordingly, this court has jurisdiction
8 over the subject matter of this proceeding and over all parties to this proceeding, including all
9 Settlement Class members, and personal jurisdiction over the Settlement Class for the Settlement.

10 4. Distribution of the Class Notice to the Settlement Class, as set forth in the
11 Amended Settlement Agreement and Release, has been completed in conformity with the
12 Preliminary Approval Order, including individual notice to all Settlement Class members who
13 could be identified through reasonable efforts, and the best notice practicable under the
14 circumstances. The Class Notice provided due and adequate notice of the proceedings and of the
15 matters set forth in the Preliminary Approval Order, including the proposed Settlement and,
16 therefore, fully satisfied the requirements of all applicable federal and state laws and the United
17 States Constitution. The Class Notice also provided due and adequate notice to Settlement Class
18 members of their right to exclude themselves from the Settlement, as well as their right to object
19 to any aspect of the proposed Settlement.

20 5. No Settlement Class member (and more broadly, no one at all) filed an objection
21 to the proposed Settlement, and no Settlement Class member appeared at the noticed Final
22 Approval Hearing to object to the Settlement. Two Settlement Class members properly and
23 timely submitted requests to be excluded from the Settlement. The Settlement Class therefore
24 does not include those 2 individuals who properly and timely excluded themselves from the
25 Settlement.

26 6. I conclude that the Settlement is fair, reasonable, and adequate to the class: (a) the
27 proposed Settlement Fund amount of \$635,000.00 is fair and reasonable to the Settlement Class
28 Members when balanced against the probable outcome of further litigation in relation to potential
decertification of an FLSA collective action, certification of a state Rule 23 class, liability issues,
damages issues and potential appeals; (b) significant investigation, formal and informal

1 discovery, research, and litigation have been conducted such that counsel for the parties at this
2 time are able to reasonably evaluate their respective positions; (c) settlement at this time
3 will avoid substantial costs, delay, and risks that would be presented by the further prosecution of
4 the litigation; (d) the proposed settlement has been reached as the result of intensive, serious and
5 non-collusive negotiations between the parties facilitated by an experienced wage-and-hour
6 mediator; and (e) no one has objected to the Settlement.

7 7. Accordingly, good cause appearing, parties' Joint Motion for Final Approval of
8 Class and Collective Action Settlement is hereby GRANTED, the settlement (as reflected in the
9 Amended Settlement Agreement and Release) is deemed to be in good faith, fair, reasonable, and
10 adequate.

11 8. I confirm the appointment of Jason T. Brown and Nicholas Conlon of Brown, LLC
12 as Class Counsel for the Settlement Class, and find that Class Counsel has adequately represented
13 the Settlement Class for purposes of entering into and implementing the Settlement.

14 9. I approve and order payment of \$173,750.00 to Class Counsel for reasonable fees
15 and costs as provided in the Settlement. Payment of Class Counsel's Fees and Costs must
16 be made separately from and in addition to the Opt-In and Rule 23 Funds in accordance with
17 the terms of the Amended Settlement Agreement and Release.

18 10. I approve and order payment of a Service Award to Named Plaintiff Ebony
19 Howard, in accordance with the Amended Settlement Agreement and Release, in the total amount
20 of \$10,000.00, in recognition of her service as the Class Representative. Payment of this Service
21 Award must be made separately from and in addition to the Opt-In and Rule 23 Funds in
22 accordance with the terms of the Amended Settlement Agreement and Release.

23 11. I approve and order payment of General Release and Separation Payments to
24 certain Plaintiffs as consideration for providing general releases to Defendant in accordance
25 with the Amended Settlement Agreement and Release, in the total amount of \$25,000.00.
26 Payments of \$5,000.00 are to be made, separately from and in addition to the Opt-In and Rule
27 23 Funds, to each of the following Plaintiffs not currently employed by Defendant: Ebony
28 Howard, Starla Wheeler, and Jackson DeMario. Payment of \$10,000.00 has already been

1 made to Plaintiff Janelle Clarkson-Dean, as consideration for providing a general release to
2 Defendant and agreeing to the separation of her employment.

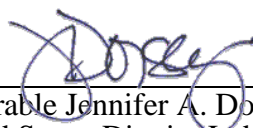
3 **ORDER**

4 Based on the findings and conclusions above, IT IS HEREBY ORDERED that the parties'
5 Joint Motion for Final Approval of Class and Collective Action Settlement is GRANTED;

6 The Claims Administrator is hereby ORDERED to proceed with distribution of the
7 Individual Settlement Payments to Participating Settlement Class Members consistent with the
8 Amended Settlement Agreement and Release and this Final Approval Order.

9 IT IS FURTHER ORDERED that THIS CASE IS DISMISSED WITH PREJUDICE, and
10 the Clerk of Court is directed to CLOSE THIS CASE.

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12 DATED: 6/10/2019

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16 Honorable Jennifer A. Dorsey
17 United States District Judge
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